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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.			HAN, JASON	
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MINNEAPOLIS, MN 55402			PAPER NUMBER	

2875
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/707,619	Applicant(s) GOLLE ET AL	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 27-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20060323</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claims 26 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

2. Newly submitted Claims 27-34 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Independent Claim 27 is concerned with a method concerned with two snowplows driving in a certain pattern to remove snow, which is independent and distinct from the apparatus/method of Independent Claims 1, 12, and 22 being more concerned with a snowplow and EL lighting device attached thereto.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, Claims 27-34 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

3. Claims 1, 12, and 22 are objected to because of the following informalities: Applicant recites the limitations, "the tinting layer" and "the safety sign", which lacks antecedent basis. Appropriate correction is required, whereby the best-deemed interpretation was applied in the rejection below.

4. Claim 1 is further objected to because of the following informalities: The Applicant identifies multiple first and second colors, which renders confusion and uncertainty. Applicant should elaborate, and perhaps identify the second recitation of the first and second colors to utilize the appropriate article (i.e., definite article – “the” first color). Appropriate correction is required.

The following rejected claims have been construed in light of the specification, but rendered the broadest interpretation as stated by the Applicant within the context of the claim language [MPEP 2111].

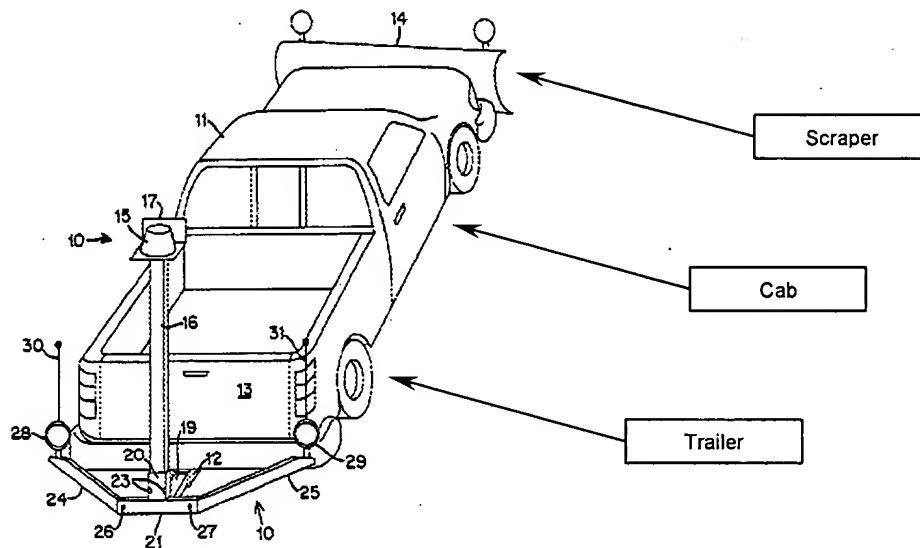
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt (U.S. Patent 6409367) in view of Burrows (U.S. Patent 6309764 B1), and further in view of Hoffman (U.S. Patent 5339550).

With regards to Claim 1, Pratt discloses a warning light for a vehicle, whereby the vehicle is a snowplow including a cab, trailer, and scraper [Figure 1 – note drawing below].



Pratt does not specifically teach the warning light being an EL lighting including an EL portion being a first color in a non-illuminated condition, and a second color in an illuminated condition, and wherein a tinting layer is tinted so that when the EL portion is non-illuminated the tinting causes the sign to produce a first color different than the color of the EL portion in the non-illuminated condition, and so that when the EL portion is illuminated the tinting causes the EL lighting to produce a second color different than the first color and different than the color of the EL portion in the illuminated condition.

Burrows teaches an electroluminescent (EL) safety sign and method of assembly including:

- An electroluminescent element having a base [Figures 1-3: (106, 107)] and an EL portion [Figures 1-3: (108)] adhered to the base with power source [Figure 4: (118A, 118B)];
- Applying a pattern layer [Figures 1-3, 6: (104, 301); Column 7, Lines 33-41] with indicia over the EL portion; and

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- Applying a tinting layer over the pattern layer [Figure 6; Column 10, Lines 20-29];
- Wherein the EL portion is a first color in a non-illuminated condition, and a second color in an illuminated condition [Column 9, Lines 2-13], and wherein the tinting layer is tinted so that when the EL portion is non-illuminated the tinting causes the sign to produce a first color different than the color of the EL portion in the non-illuminated condition [Column 9, Lines 48-61], and so that when the EL portion is illuminated the tinting causes the safety sign to produce a second color different than the first color and different than the color of the EL portion in the illuminated condition [Column 9, Line 62 – Column 10, Line 8].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the warning light of Pratt to incorporate the EL safety lighting of Burrows in order to provide various designs and warning systems with various illumination and non-illumination colors, since it “will thus be appreciated that limitless design possibilities arise for interrelating the lit and unlit appearances of the lamp by printing down various colorized phosphor zones in combination with various tinted zones” [see Burrows: Column 10, Lines 4-8]. It is also obvious that one could incorporate the warning/EL safety lighting onto the cab of a snowplow, since Hoffman teaches an EL light device [Figure 1], and discloses, “While the discussion of the invention has emphasized its use in connection with motor vehicles, specifically automobiles, signs according to the invention could also be mounted on trucks,

boats, and the like, or on articles of clothing or the like, where not otherwise limited [Column 6, Lines 3-7]”. Providing the modification of incorporating the EL light device onto the cab would thus convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, further improving overall safety and prevent an accident. Lastly, it should be noted that it is commonly known and obvious within the art to use signs on large vehicles to increase awareness of drivers and avoid accidents.

6. With regard to Claims 2-4, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above, but does not specifically teach the EL lighting device being attached to one or more doors of the cab (re: Claim 2), onto a front portion of the cab (re: Claim 3), nor onto an upper portion of the cab (re: Claim 4).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto one or more doors, a front portion, and/or an upper portion of the cab may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

7. With regard to Claims 5-6, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above, but does not specifically teach

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one or more mud flaps attached to one or more of the cab and trailer (re: Claim 5), whereby the EL lighting device is on one or more mud flaps.

However, it is commonly known within the art that trucks, and even cars, may be equipped with mud flaps on the cab and trailer. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto one or more mud flaps may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

8. With regards to Claim 7, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Pratt teaches, "In most instances, the beacon light is a flashing or strobe light designed to draw attention of nearby observers to the existence of the plow vehicle [Column 1, Lines 36-39]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the EL lighting device of Hoffman to emit a blinking display, as taught by Pratt, so as to ostentatiously enhance the visibility and draw attention to nearby observers.

9. With regards to Claim 8, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including indicia [Figure 1: (18, 20)].

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10. With regards to Claim 9, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Hoffman teaches the indicia imparting a message conveying safety or caution [Figures 1, 5, 6: (18, 20)]. With respect to showing a pattern selected to convey a visual safety message, it should be noted that signs are intended to convey messages, whereby a safety sign does not attain any unique, unobvious, or patentable status.

11. With regards to Claim 10, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including more than one color [Column 2, Lines 64-68].

12. With regards to Claim 11, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above, but does not specifically teach the EL lighting color being orange or yellow. However, it would have been obvious to one ordinarily skilled in the art at the time of invention that one could implement the EL device to emit an orange or yellow color, which is commonly known within the art, whereby said colors are commonly associated with warning. Pratt corroborates, "They may be fabricated of an easy-to-see color, such as fluorescent orange [Column 5, Lines 60-62]."

13. Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt (U.S. Patent 6409367) in view of Burrows (U.S. Patent 6309764 B1), and further in view of Hoffman (U.S. Patent 5339550).

14. Since Claim 12 is a method claim sufficiently reciting the structural limitations of Claim 1, Pratt in view of Burrows, and further in view of Hoffman is an obvious teaching

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over the scope of the present claim. It has been held that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill would understand the method of using said apparatus. In addition, Pratt teaches, "The warning light or beacon is typically deployed at or near the highest area of the vehicle and is most effective at night and/or during stormy weather conditions [Column 1, Lines 34-37]."

15. With regards to Claim 13, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device including safety indicia [Figure 1: (18, 20)], but does not specifically teach one or more mud flaps attached to the snowplow where the EL lighting device is on.

However, it is commonly known within the art that trucks, and even cars, may be equipped with mud flaps on the cab and trailer. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto one or more mud flaps may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

16. With regard to Claims 14-17, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Hoffman teaches

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the EL lighting device including safety indicia [Figure 1: (18, 20)], but does not specifically teach the safety indicia including a surface on a cab of the snowplow (re: Claim 14), onto the rear of the snowplow (re: Claim 15), onto one or more rearview mirrors of the snowplow (re: Claim 16), nor onto the top of the snowplow (re: Claim 17).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the safety indicia with EL lighting surface(s) onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto a surface of the cab, a rear of the snowplow, onto one or more rearview mirrors, and/or onto the top of the snowplow may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

17. With regards to Claim 18, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above, but does not specifically teach the snowplow being driven adjacent another snowplow that includes safety indicia illuminated by one or more EL lighting surfaces.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the safety indicia with EL lighting surface(s) on another snowplow, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, it is obvious that implementing the EL lighting

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device on a plurality of snowplows would increase awareness and safety during a snowstorm.

18. With regards to Claim 19, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, it is considered obvious that one would use a snowplow during a snowstorm. Pratt corroborates, "The warning light or beacon is typically deployed at or near the highest area of the vehicle and is most effective at night and/or during stormy weather conditions [Column 1, Lines 34-37]."

19. With regard to Claims 20-21, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Pratt teaches, "In most instances, the beacon light is a flashing or strobe light designed to draw attention of nearby observers to the existence of the plow vehicle [Column 1, Lines 36-39]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the EL lighting device of Hoffman to emit a blinking display, as taught by Pratt, so as to ostentatiously enhance the visibility and draw attention to nearby observers.

20. Claims 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt (U.S. Patent 6409367) in view of Burrows (U.S. Patent 6309764 B1), and further in view of Hoffman (U.S. Patent 5339550).

21. Since Claim 22 is a method claim sufficiently reciting the structural limitations of Claim 1, Pratt in view of Burrows, and further in view of Hoffman is an obvious teaching over the scope of the present claim. It has been held that when all structural limitations of an apparatus have been satisfied by the prior art, one of ordinary skill would

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understand the method of making said apparatus. In addition, Pratt teaches, "The warning light or beacon is typically deployed at or near the highest area of the vehicle and is most effective at night and/or during stormy weather conditions [Column 1, Lines 34-37]."

22. With regards to Claim 23, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above. In addition, Hoffman teaches the EL lighting device/safety signal including more than one color [Column 2, Lines 64-68].

23. With regard to Claims 24-26, Pratt in view of Burrows, and further in view of Hoffman discloses the claimed invention as cited above, but does not specifically teach the EL lighting device being attached to the front of the snowplow (re: Claim 24), the rear of the snowplow (re: Claim 25), and/or at least one mud guard attached to the snowplow (re: Claim 26).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the EL lighting device onto various positions of the snowplow, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. In this case, providing the EL device onto the front of the snowplow, the rear of the snowplow, and/or onto at least one mudguard (which are commonly known) attached to the snowplow may further convey a message [e.g., safety or warning] or enhance visibility to other individuals/vehicles of the presence of the snowplow, and thus, enhance overall safety and prevent an accident.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Jason M Han
Examiner
Art Unit 2875

JMH (5/23/2006)



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